



## **DEPARTMENT OF TRANSPORTATION**

### **National Highway Traffic Safety Administration**

#### **49 CFR Part 575**

#### **Docket No. NHTSA-2013-0120**

#### **RIN 2127- AL49**

#### **Consumer Information; Uniform Tire Quality Grading Standards**

**AGENCY:** National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

**ACTION:** Interim final rule; request for comments.

**SUMMARY:** The Uniform Tire Quality Grading Standards (UTQGS) contain detailed testing procedures for generating consumer information about the treadwear, traction, and temperature resistance of passenger car tires. To ensure the uniformity of treadwear grades, the grading procedures specify a 400-mile test course located near San Angelo, Texas. Two or four-vehicle convoys equipped with candidate tires travel along this course to evaluate the tire treadwear performance. Because flooding is currently affecting several water crossings along a portion of the test course, NHTSA is issuing this interim final rule to add an alternate treadwear test course route to avoid the inaccessible portions of the course. This change will not compromise the reliability of the treadwear grades, and will not impose or relax any substantive requirements or burdens on manufacturers. Although the addition of the alternative course route is effective immediately, in order to benefit from comments which interested parties and the public may have, the agency is requesting that comments be submitted to the docket for this rule. Following the close of the comment period, the agency will publish a document responding to the comments and, if appropriate, the agency will amend the provisions of this rule.

**DATES:** *Effective date:* This interim final rule is effective **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

*Comments:* You should submit your comments early enough to be received not later than **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

**ADDRESSES:** You may submit comments, identified by the docket number at the heading of this notice, by any of the following methods:

Online: Go to <http://www.regulations.gov>. Follow the instructions for submitting comments on the electronic docket site by clicking on “Help” or “FAQs.”

Fax: 1-202-493-2251.

Mail: U.S. Department of Transportation, Docket Operations, M-30, Room W12-140, 1200 New Jersey Avenue, S.E., Washington, DC 20590.

Hand Delivery: 1200 New Jersey Avenue, S.E., West Building Ground Floor, Room W12-140, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

**Instructions:** All submissions must include the agency name and docket number. Note that all comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided. Please see the Privacy Act discussion below. We will consider all comments received before the close of business on the comment closing date indicated above. To the extent possible, we will also consider comments filed after the closing date.

**Docket:** For access to the docket to read background documents or comments received, go to <http://www.regulations.gov> at any time or to 1200 New Jersey Avenue, S.E., West

Building Ground Floor, Room W12-140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. Telephone: (202) 366-9826.

**Privacy Act:** Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the Federal Register published on April 11, 2000 (65 FR 19477-78) or you may visit <http://www.dot.gov/privacy.html>.

**Confidential Business Information:** If you wish to submit any information under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Chief Counsel, NHTSA, at the address given under FOR FURTHER INFORMATION CONTACT. In addition, you should submit two copies, from which you have deleted the claimed confidential business information, to Docket Operations at the address given above. When you send a comment containing information claimed to be confidential business information, you should include a cover letter setting forth the information specified in our confidential business information regulation (49 CFR Part 512).

**FOR FURTHER INFORMATION CONTACT:**

*For technical and policy issues:* Hisham Mohamed, Office of International Policy, Fuel Economy, and Consumer Standards, NHTSA, 1200 New Jersey Ave., S.E., West Building, W43-437, Washington, DC 20590. Telephone: (202) 366-0307.

*For legal issues:* William H. Shakely, Office of the Chief Counsel, NHTSA, 1200 New Jersey Ave., S.E., West Building, W41-227, Washington, DC 20590. Telephone: (202) 366-2992. Fax: (202) 366-3820.

## SUPPLEMENTARY INFORMATION:

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### **I. UTQGS and the Treadwear Test Course**

The Uniform Tire Quality Grading Standards (UTQGS) require motor vehicle and tire manufacturers and tire brand name owners to provide information indicating the relative performance of passenger car tires in the areas of treadwear, traction, and temperature resistance. This information aids consumers in making informed choices in the purchase of passenger car tires.

Treadwear grades are expressed, in multiples of 20, as a percentage of a nominal treadwear value of 100.<sup>1</sup> For example, a treadwear grade of 160 means the candidate tire tread life should be 1.6 times longer compared to NHTSA's "control tire."<sup>2</sup> Although treadwear grades do not predict the actual mileage that a particular tire will achieve, they are sufficiently accurate to help consumers choose among tires based on their relative tread life.

To ensure the uniformity of treadwear grades, Appendix A of 49 CFR 575.104 specifies a 400-mile treadwear test course. Two or four-vehicle convoys equipped with candidate tires travel along this course to evaluate the tire treadwear performance. The test course consists of three loops in the geographical vicinity of Goodfellow Air Force Base near San Angelo, Texas. The first loop ("Southern Loop") runs south 143 miles through the cities of Eldorado, Sonora, and Juno, Texas to the Camp Hudson Historical Marker, and returns by the same route. The

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<sup>1</sup> See 49 CFR 575.104(e)(2)(ix)(F).

<sup>2</sup> See <http://www.safercar.gov/Vehicle+Shoppers/Tires/Tires+Rating/Treadwear>.

second loop (“Eastern Loop”) runs east over Farm and Ranch Roads and returns to its starting point. The third loop (“Northwestern Loop”) runs northwest to Water Valley, northeast toward Robert Lee and returns via Texas 208 to the vicinity of Goodfellow AFB.<sup>3</sup>

As a result of recent overflow of the Devils River, the treadwear testing convoys cannot access Texas 189 due to road washout and cannot cross at least one of the several water crossings along Texas 163 and, therefore, cannot safely use a portion of the Southern Loop. Specifically, FM 189 and several low water crossings along Texas 163, located between US 277 and the Camp Hudson Historical Marker, are impassable or submerged under several inches of water.

## **II. Change to the Treadwear Test Course**

Because the affected portion of the Southern Loop will be inaccessible for an indeterminate time and there is an immediate need for testing, the agency is adding an alternate test course route that substitutes different sections of the course for the flooded portion of the Southern Loop. Test convoys will have the option of using this alternate route to conduct treadwear testing. As explained above, the regular course route consists of the Southern Loop, the Eastern Loop, and the Northwestern Loop, in that order. Test convoys using the alternate route will travel on portions of the Southern Loop and then continue on the Eastern Loop and the Northwestern Loop. After completing the Northwestern Loop, the convoys will repeat the Eastern Loop, travel on the Northwestern Loop (including travel on portions of the Northwestern Loop in the reverse direction), and then complete the Eastern Loop a third time. Making the additional trips on the Eastern Loop and the Northwestern Loop will make up the distance that is usually traveled on Texas 163 and FM 189.

Specifically, instead of traveling south on FM 189 and Texas 163, each test convoy will

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<sup>3</sup> See Figure 3, Appendix A, 49 CFR 575.104.

travel south from Sonora on US 277 as normal for approximately 5.5 miles to a picnic area on right. At this location the test convoy will reverse course and proceed to the completion of the Southern Loop. After completing this modified Southern Loop, the Eastern Loop and Northwestern Loop to the intersection of Loop 306 and FM 388, the test convoy will turn left on FM 388 and run the Eastern Loop a second time. On completion of the second Eastern Loop at FM 388 and Loop 306, the convoys will turn right to travel on the Northwestern Loop a second time with the following modification: The convoys will follow the normal Northwestern Loop until they reach the intersection of FM 2105 and Texas 208, where the convoys will turn right onto Texas 208. The convoys will travel on Texas 208 until the intersection with FM 2034. The convoys will turn left onto FM 2034 and travel on FM 2034 to the intersection with US 87, where they will turn left onto US 87. At the intersection of US 87 and FM 2105, the convoys will turn left onto FM 2105 and continue to the intersection with US 277. The convoys will then turn right onto US 277 and continue to the intersection of Loop 306 and FM 388. At this point the convoy will turn left and run the Eastern Loop a third and final time, returning to the intersection of Loop 306 and FM 388. This will be the completion of the full route.

The distance between the picnic area on US 277 and the Camp Hudson Historical Marker is approximately equivalent to the combined distance of the modified Northwestern Loop and two trips on the Eastern Loop. Accordingly, the agency has concluded that using the alternative treadwear course route will not compromise the reliability of the treadwear grades and will not impose or relax any substantive requirements or burdens on manufacturers. The agency has further determined that the impact of this interim final rule is so minimal as to not warrant the preparation of a full regulatory evaluation.

### **III Request for Comment**

Although this interim final rule is effective immediately, in order to benefit from comments which interested parties and the public may have, the agency is requesting that comments be submitted to the docket for this notice. Following the close of the comment period, the agency will publish a notice responding to the comments and, if appropriate, the agency will amend the provisions of this rule.

#### **IV. Public Participation**

##### **How do I prepare and submit comments?**

Your comments must be written and in English. To ensure that your comments are correctly filed in the Docket, please include the docket number of this document in your comments.

Your comments must not be more than 15 pages long. (49 CFR 553.21). We established this limit to encourage you to write your primary comments in a concise fashion. However, you may attach necessary additional documents to your comments. There is no limit on the length of the attachments.

Comments may be submitted to the docket electronically by logging onto the Docket Management System website at <http://www.regulations.gov>. Follow the online instructions for submitting comments.

You may also submit two copies of your comments, including the attachments, to Docket Management at the address given above under **ADDRESSES**.

Please note that pursuant to the Data Quality Act, in order for substantive data to be relied upon and used by the agency, it must meet the information quality standards set forth in the OMB and DOT Data Quality Act guidelines. Accordingly, we encourage you to consult the guidelines in preparing your comments. OMB's guidelines may be accessed at

<http://www.whitehouse.gov/omb/fedreg/reproducible.html>. DOT's guidelines may be accessed at

[http://www.rita.dot.gov/bts/sites/rita.dot.gov.bts/files/subject\\_areas/statistical\\_policy\\_and\\_research/data\\_quality\\_guidelines/index.html](http://www.rita.dot.gov/bts/sites/rita.dot.gov.bts/files/subject_areas/statistical_policy_and_research/data_quality_guidelines/index.html).

### **How can I be sure that my comments were received?**

If you wish Docket Management to notify you upon its receipt of your comments, enclose a self-addressed, stamped postcard in the envelope containing your comments. Upon receiving your comments, Docket Management will return the postcard by mail.

### **How do I submit confidential business information?**

If you wish to submit any information under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Chief Counsel, NHTSA, at the address given above under **FOR FURTHER INFORMATION CONTACT**. In addition, you should submit two copies, from which you have deleted the claimed confidential business information, to Docket Management at the address given above under **ADDRESSES**. When you send a comment containing information claimed to be confidential business information, you should include a cover letter setting forth the information specified in our confidential business information regulation. (49 CFR Part 512.)

### **Will the agency consider late comments?**

We will consider all comments that Docket Management receives before the close of business on the comment closing date indicated above under **DATES**. To the extent possible, we will also consider comments that Docket Management receives after that date. If Docket



Management receives a comment too late for us to consider, we will consider that comment as an informal suggestion for future rulemaking action.

#### **How can I read the comments submitted by other people?**

You may read the comments received by Docket Management at the address given above under **ADDRESSES**. The hours of the Docket are indicated above in the same location. You may also see the comments on the Internet. To read the comments on the Internet, go to <http://www.regulations.gov>. Follow the online instructions for accessing the dockets.

Please note that even after the comment closing date, we will continue to file relevant information in the Docket as it becomes available. Further, some people may submit late comments. Accordingly, we recommend that you periodically check the Docket for new material.

### **IV. Regulatory Analyses and Notices**

#### **A. Immediate Effective Date and Request for Comments**

Section 553 of the Administrative Procedure Act (5 U.S.C. 553) provides that when an agency, for good cause, finds that notice and public procedure are impracticable, unnecessary, or contrary to the public interest, the agency may issue a final rule without providing notice and an opportunity for public comment (5 U.S.C. 553(b)(B)). NHTSA has determined that there is good cause to issue this interim final rule without notice and an opportunity for public comment because such notice and opportunity for comment would be impracticable. Flooding is presently making portions of the treadwear test course inaccessible, and there is an immediate need to continue testing. This testing would be unavoidably prevented by undertaking notice and comment rulemaking proceedings before specifying an alternate treadwear test course route.

Section 553 further requires that that a rule be published at least 30 days prior to its effective date unless one of three exceptions applies. One of these exceptions is when the agency finds good cause for a shorter period. For the reasons stated above, i.e., the inaccessibility of portions of the test course and the immediate need for testing, the agency finds that there is good cause to make this rule effective immediately.

Although the agency is issuing this interim final rule, which is effective immediately, without notice and opportunity for public comment, the agency is requesting that comments be submitted to the docket for this notice in order to benefit from comments which interested parties and the public may have. Following the close of the comment period, the agency will publish a notice responding to the comments and, if appropriate, the agency will amend the provisions of this rule.

**B. Executive Orders 12866 and 13563 and DOT Regulatory Policies and Procedures**

Executive Order 12866, Executive Order 13563, and the Department of Transportation's regulatory policies require determinations as to whether a regulatory action is "significant" and therefore subject to OMB review and the requirements of the aforementioned Executive Orders. Executive Order 12866 defines a "significant regulatory action" as one that is likely to result in a rule that may:

- (1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal governments or communities;
- (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

We have considered the potential impact of this interim final rule under Executive Order 12866, Executive Order 13563, and the Department of Transportation's regulatory policies and procedures. This interim final rule specifies an alternate route for test convoys using the treadwear test course in order to avoid portions of the course that are currently inaccessible due to flooding. The agency has determined that this rule will not impose or relax any substantive requirements or burdens on manufacturers. Accordingly, it has been determined to be not "significant" under Executive Order 12866 and the Department of Transportation's regulatory policies and procedures and was not reviewed by the Office of Management and Budget.

## **B. Regulatory Flexibility Act**

Pursuant to the Regulatory Flexibility Act (RFA) (codified as amended at 5 U.S.C. 601 et seq.), whenever an agency is required to publish a notice of proposed rulemaking or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities (i.e., small businesses, small organizations, and small governmental jurisdictions). No regulatory flexibility analysis is required if the head of an agency certifies that the rule would not have a significant economic impact on a substantial number of small entities. The Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996 amended the Regulatory Flexibility Act to require Federal agencies to provide a statement of the factual basis for certifying that a rule will not have a significant economic impact on a substantial number of small entities.

The interim final rule affects tire manufacturers and brand name owners. Specifically, the agency is adding an alternate route for test convoys using the treadwear test course in order to avoid portions of the course that are currently inaccessible due to flooding. The agency has concluded that specifying this alternate route will not compromise the reliability of the treadwear grades, and will not result in any additional costs to these entities. Accordingly, we certify that the interim final rule will not have a significant economic impact on a substantial number of small entities.

**C. Executive Order 13132 (Federalism)**

NHTSA has examined today's interim final rule pursuant to Executive Order 13132 (64 FR 43255, August 10, 1999) and concluded that no additional consultation with States, local governments or their representatives is mandated beyond the rulemaking process. The agency has concluded that the interim final rule does not have sufficient federalism implications to warrant consultation with State and local officials or the preparation of a federalism summary impact statement. The interim final rule, which specifies an alternate route for test convoys using the treadwear test course, would not have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government." The agency expects that general principles of preemption law would operate so as to displace any conflicting State law or regulations.

**D. Executive Order 12988 (Civil Justice Reform)**

When promulgating a regulation, Executive Order 12988 specifically requires that the agency must make every reasonable effort to ensure that the regulation, as appropriate: (1) specifies in clear language the preemptive effect; (2) specifies in clear language the effect on

existing Federal law or regulation, including all provisions repealed, circumscribed, displaced, impaired, or modified; (3) provides a clear legal standard for affected conduct rather than a general standard, while promoting simplification and burden reduction; (4) specifies in clear language the retroactive effect; (5) specifies whether administrative proceedings are to be required before parties may file suit in court; (6) explicitly or implicitly defines key terms; and (7) addresses other important issues affecting clarity and general draftsmanship of regulations.

Pursuant to this Order, NHTSA notes as follows. The preemptive effect of this interim final rule is discussed above in connection with Executive Order 13132. NHTSA notes further that there is no requirement that individuals submit a petition for reconsideration or pursue other administrative proceeding before they may file suit in court.

#### **E. Unfunded Mandates Reform Act**

The Unfunded Mandates Reform Act of 1995 requires agencies to prepare a written assessment of the costs, benefits and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local or tribal governments, in the aggregate, or by the private sector, of more than \$100 million annually (adjusted for inflation with base year of 1995). In 2011 dollars, this threshold is \$139 million.<sup>4</sup> This interim final rule would not result in the expenditure by State, local, or tribal governments, in the aggregate, of more than \$139 million annually, and would not result in the expenditure of that magnitude by the private sector.

#### **F. National Environmental Policy Act**

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<sup>4</sup> Adjusting this amount by the implicit gross domestic product price deflator for the year 2011 results in \$139 million ( $113.361/81.606 = 1.39$ ).

NHTSA has analyzed this rulemaking action for the purposes of the National Environmental Policy Act. The agency has determined that this rulemaking will not have any significant impact on the quality of the human environment.

#### **G. Paperwork Reduction Act**

Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501, et. seq.), Federal agencies must obtain approval from the Office of Management and Budget for each collection of information they conduct, sponsor, or require through regulations. This rulemaking does not establish any new information collection requirements.

#### **H. Plain Language**

Executive Order 12866 requires each agency to write all rules in plain language. Application of the principles of plain language includes consideration of the following questions:

- Have we organized the material to suit the public's needs?
- Are the requirements in the rule clearly stated?
- Does the rule contain technical language or jargon that isn't clear?
- Would a different format (grouping and order of sections, use of headings, paragraphing) make the rule easier to understand?
- Would more (but shorter) sections be better?
- Could we improve clarity by adding tables, lists, or diagrams?
- What else could we do to make the rule easier to understand?

If you have any responses to these questions, please include them in your comments.

#### **I. Regulation Identifier Number (RIN)**

The Department of Transportation assigns a regulation identifier number (RIN) to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory

Information Service Center publishes the Unified Agenda in April and October of each year. You may use the RIN contained in the heading at the beginning of this document to find this action in the Unified Agenda.

## **J. Privacy Act**

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an organization, business, labor union, etc.). You may review DOT's complete Privacy Act statement in the Federal Register published on April 11, 2000 (Volume 65, Number 70; Pages 19477-78) or you may visit <http://www.dot.gov/privacy.html>

## **List of Subjects in 49 CFR Part 575**

Consumer protection, Motor vehicle safety, Reporting and recordkeeping requirements, and tires.

In consideration of the foregoing, NHTSA is amending 49 CFR part 575 as follows:

## **PART 575 – CONSUMER INFORMATION**

1. Revise the authority citation for part 575 to read as follows:

Authority: 49 U.S.C. 32302, 32304A, 30111, 30115, 30117, 30123, 30166, 30181, 30182, 30183, and 32908, Pub. L. 104-414, 114 Stat. 1800, Pub. L. 109-59, 119 Stat. 1144, Pub. L. 110-140, 121 Stat. 1492, 15 U.S.C. 1232(g); delegation of authority at 49 CFR 1.95.

2. Amend Appendix A to § 575.104 by adding the paragraphs entitled, “Alternate Route When FM 189 and Texas 163 are Closed,” “Modified Southern Loop,” “Eastern Loop and Northwestern Loop,” “Modified Northwestern Loop,” and “Repeat Eastern Loop” after the paragraph entitled “Northwestern Loop” to read as follows:

**§ 575.104 Uniform tire quality grading standards.**

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## APPENDIX A—TREADWEAR TEST COURSE AND DRIVING PROCEDURES

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Alternate Route When FM 189 and Texas 163 are Closed. This alternate test course route consists of a Modified Southern Loop, the Eastern Loop and Northwestern Loop described above, and a Modified Northwestern Loop.

Modified Southern Loop. The course begins at the intersection (1) of Ft. McKavitt Road and Paint Rock Road (FM 388) at the northwest corner of Goodfellow AFB. Drive east via FM 388 to junction with Loop Road 306 (2). Turn right onto Loop Road 306 and proceed south to junction with US 277 (3). Turn onto US 277 and proceed south through Eldorado and Sonora (4), continuing on US 277 approximately 5.5 miles (from traffic light at separation of US 277 and Loop 467) to picnic area on right. Reverse route at this location and proceed north to junction of Loop 306 and FM 388 (2).

Eastern Loop and Northwestern Loop. From junction of Loop Road 306 and FM 388 (2), complete the Eastern Loop, the Northwestern Loop, and then, from junction of Loop Road 306 and FM 388 (2), repeat the Eastern Loop.

Modified Northwestern Loop. Proceed north on Northwestern Loop as normal until reaching the intersection of FM 2105 and Texas 208 and turn right onto Texas 208. Proceed on Texas 208 until the intersection with FM 2034. Turn left onto FM 2034 and continue on FM 2034 to the intersection with US 87. Turn left onto US 87. At the intersection of US 87 and FM 2105 turn left onto FM 2105 and proceed to the intersection with US 277. Turn right onto US 277 and proceed to the intersection of Loop Road 306 and FM 388 (2).



Repeat Eastern Loop. Turn left onto FM 388 and repeat the Eastern Loop. For convoys that originate at Goodfellow AFB, continue on FM 388 and proceed to starting point at junction of Ft. McKavitt Road and FM 388 (1). For convoys that do not originate at Goodfellow AFB, turn left onto Loop Road 306.

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Issued on: October 31, 2013

in Washington, DC, under authority delegated in 49 CFR part 1.95.

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David L. Strickland  
Administrator

BILLING CODE: 4910-59-P

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